



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8  
999 18<sup>TH</sup> STREET - SUITE 300  
DENVER, CO 80202-2466  
<http://www.epa.gov/region08>

DOCKET NO.: SDWA-08-2003-0055

IN THE MATTER OF:

RIM OPERATING, INC.

Respondent

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)  
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)

**FINAL ORDER**

Pursuant to 40 C.F.R. § 22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby ORDERED to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

May 18, 2004  
DATE

SIGNED  
Alfred C. Smith  
Regional Judicial Officer



**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

Docket No.: SDWA-08-2003-0055

In the Matter of:	)	
	)	
RIM Operating, Inc.	)	<b>CONSENT AGREEMENT</b>
	)	
<b>Respondent.</b>	)	

Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondent RIM Operating, Inc. (RIM), by their undersigned representatives, hereby consent and agree as follows.

BACKGROUND

1. EPA issued to RIM Offshore, Inc. a Proposed Administrative Order and Opportunity to Request a Hearing (PAO) filed on September 22, 2003, alleging certain violations of Part C of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h et seq., relating to the underground injection control (UIC) program.
  
2. RIM Offshore, Inc. is an affiliated company to RIM Operating, Inc. (RIM). EPA was notified by RIM that RIM Operating, Inc. is the operator of the wells at issue and while RIM Offshore, Inc. has a small ownership interest in some of the wells at issue, it does not operate any of the wells. Therefore, according to RIM, the more appropriate settling party is RIM Operating, Inc. and not RIM Offshore, Inc. Since no Answer has been filed in this matter, EPA may, pursuant to 40 C.F.R. §22.14(c), as a matter of right,

amend the PAO, to among other things, amend the name of the Respondent. In settling with RIM Operating, Inc. in this Consent Agreement, EPA has, in effect, amended the PAO to change the name of the Respondent. RIM, by signing this Consent Agreement, agrees to the change.

3. The PAO alleged, among other things, that RIM violated the SDWA by (a) failing to timely conduct a mechanical integrity test at one well, (b) twice failing to timely report a loss of mechanical integrity at two wells, (c) failing to timely submit fluid analyses as required at three wells, and (d) failing to timely submit annual monitoring reports at three wells. The wells are located inside the exterior boundaries of the Ute Mountain Ute Indian Reservation, Montezuma County, Colorado.
4. In response to the PAO, RIM submitted information on October 20, 2003, disputing the allegations and in mitigation of the proposed penalty, including but not limited to the argument that it had actually submitted fluid analyses, but could not document it. Further, but without limitation, RIM argued that on two occasions EPA was aware of the loss of mechanical integrity that it alleged RIM failed to report which RIM argued obviates the need to separately report this matter. In response, EPA continues to allege the violations, but has reduced the penalty accordingly.
5. To resolve this matter, and without adjudication of any issue of fact or law, the parties agree to a settlement requiring the expenditure by RIM of a payment in the amount of \$16,874.00 (sixteen thousand, eight hundred seventy-four dollars). EPA finds this penalty amount is appropriate,

taking into consideration the statutory factors in Section 1423(c)(4)(B) of the SDWA; the UIC Penalty Policy; and other relevant factors.

6. RIM admits that EPA has the jurisdictional authority to issue the PAO and settle this case pursuant to this Consent Agreement, but does not admit nor deny the remaining allegations, including the findings and alleged violations.

7. This Consent Agreement applies to and is binding upon EPA and upon RIM and RIM's successors and assigns. Any change in ownership or corporate status of RIM including, but not limited to, any transfer of assets of real or personal

property shall not alter RIM's responsibilities under this agreement.

8. For the purposes of this Consent Agreement only, RIM waives its right to contest any issue of law or fact set forth in the PAO and knowingly agrees to waive its right to a hearing on this matter under section 1423(c)(3)(a) of the SDWA, 42 U.S.C. 300h-2(c)(3)(a), and to appeal this matter under SDWA section 1423(c)(6), 42 U.S.C. 300h-2(c)(6).

#### TERMS OF SETTLEMENT

##### Civil Penalty

9. RIM consents to the issuance of the Consent Agreement and for the purposes of settlement to the payment of the above-cited civil penalty.

10. RIM shall, not more than 30 (thirty) calendar days after the date of the signed Final Order in this matter, submit a cashier's or certified check in the amount of amount of \$16,874.00 (sixteen thousand, eight hundred seventy-four dollars), payable to "Treasurer, United States of America" to:

EPA - Region 8  
Regional Hearing Clerk  
Post Office Box 360859  
Pittsburgh, Pennsylvania 15251.

11. A copy of the check identified in paragraph 10 shall be simultaneously mailed to the following addresses:

Tina Artemis, Regional Hearing Clerk  
U.S. EPA, Region 8 (8RC)  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

Jim Eppers, Senior Enforcement Attorney  
U.S. EPA, Region 8 (8ENF-L)  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466.

12. RIM further agrees and consents that if RIM fails to pay the penalty in accordance with the terms of paragraph 10, the amount of \$29,957.00 (twenty-nine thousand, nine hundred fifty-seven) less any payments made, if any, shall be due and owing. Interest on this amount shall accrue at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. §3717. A late payment charge of twenty dollars (\$20.00) shall be imposed after the first calendar 30 days that the payment, or any portion thereof, is overdue, with

an additional charge of fifteen dollars (\$15.00) imposed for each subsequent 30-day period until the payment due is made.

13. The penalty specified in paragraph 10 above shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.

#### GENERAL PROVISIONS

14. This Consent Agreement contains all the terms of the settlement agreed to by the parties.
15. Nothing in this Consent Agreement shall relieve RIM of the duty to comply with the SDWA and its implementing regulations.
16. Failure by RIM to comply with any of the terms of this Consent Agreement shall constitute a breach of the agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.
17. Nothing in this Consent Agreement shall be construed as a waiver by the EPA of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of RIM's failure to perform pursuant to the terms of this Agreement.
18. The undersigned representative of RIM certifies that he or she is fully authorized to enter into the terms and

conditions of this Consent Agreement and to bind RIM to those terms and conditions.

19. Each party shall bear its own costs and attorneys fees in connection with this matter.
20. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a Final Order.
21. This Consent Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall resolve RIM's civil liability for and shall be a complete and full civil, administrative and injunctive relief settlement of the specific violations and facts alleged in the PAO.

**RIM Operating, Inc.**

Date: 5-6-04 By: Rene' Morin - V. P.

**U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

Date: 5/17/04 By: SIGNED  
Carol Rushin  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

## **CERTIFICATE OF SERVICE**

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **RIM OFFSHORE, INC. DOCKET NO.:SDWA-08-2003-0055** was filed with the Regional Hearing Clerk on May 18, 2004.

Further, the undersigned certifies that a true and correct copy of the document was delivered to James H. Eppers, Enforcement Attorney, U.S. EPA - Region 8, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt on May 18, 2004, to:

Colin G. Harris, Esq.  
1401 Pearl Street, Suite 400  
Boulder, CO 80302

May 18, 2004

**SIGNED**

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Tina Artemis  
Regional Hearing Clerk

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE  
ON MAY 18, 2004.**